

## **REMARKS**

In response to the Office Action dated March 31, 2010, the Assignee respectfully requests reconsideration based on the above amendments and on the following remarks.

Claims 1-28 and 31-37 are pending in this application. Claims 29-30 and 38-50 were previously canceled without prejudice or disclaimer.

### **Rejection of Claims 36 & 37 under § 101**

Claims 36 and 37 were rejected under 35 U.S.C. § 101 for claiming non-statutory subject matter. The preambles of claims 36 and 37 have been amended to recite a “non-transitory” computer-readable storage medium, as Examiner Van Handel suggests. The Office is thus respectfully requested to re-examine claims 36 and 37 in their current presentation.

### **Rejection under § 112**

The Office rejected claims 36 and 37 under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. “To comply with the written description requirement ..., each claim limitation must be expressly, implicitly, or inherently supported in the originally filed disclosure.” Department of Commerce, Manual of Patent Examining Procedure § 2163 (II) (3) (b) (Rev. 1, Feb. 2003) (hereinafter “M.P.E.P.”).

The Assignee respectfully asserts that independent claim 36 fully complies with 35 U.S.C. § 112, first paragraph. Independent claim 36 has been amended to recite “*collecting subscriber content-choice data from a plurality of service providers as data describing event timelines that merges content metadata with subscriber events over a period of time.*” Support may be found at least at paragraphs [0074R] - [0074T], which were incorporated by reference and added by an amendment submitted June 29, 2009. Independent claim 36 also recites features for “*applying priority assignments to the content metadata.*” Support may be found at

least at paragraphs [0074U] - [0074W], which were also incorporated by reference and added by an amendment submitted June 29, 2009.

The Assignee, then, respectfully submits that claims 36 and 37 fully comply with the written description requirement of § 112, first paragraph. Examiner Van Handel is respectfully requested to remove the § 112 rejection.

### **Rejection of Claims under § 102 (e)**

The Office rejected claims 1, 3-8, and 10-14 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent Application Publication 2003/0172374 to Vinson, *et al.*

These claims, though, are not anticipated by *Vinson*. These claims recite, or incorporate, features that are not taught or suggested by *Vinson*. Independent claim 1, for example, recites “collecting subscriber content-choice data from a plurality of service providers as data describing event timelines that merges content metadata with subscriber events over a period of time.” Support may be found at least at paragraphs [0074R] - [0074T], which were incorporated by reference and added by an amendment submitted June 29, 2009. Independent claim 1 also recites “classifying the data describing the event timelines according to viewing time for genres of programming.” Support may be found at least at page 9, lines 7-15 of the as-filed application.

*Vinson* does not anticipate at least these features. *Vinson* describes a database that stores set-top box events. See Published U.S. Patent Application 2003/0172374 to Vinson at paragraph [0027]. Each set-top box’s viewing habits may be correlated to demographic data, news, weather, sales, and content identifiers. See *id.* at paragraphs [0032], [0033], [0045], and [0083]. A “Data Center” may store the collected data. See *id.* at paragraph [0087]. Users may query the data center and extract “meaningful” information. See *id.* at paragraph [0088]. Still, though, *Vinson* fails to teach or suggest “collecting subscriber content-choice data from a plurality of service providers as data describing event timelines that merges content metadata with subscriber events over a period of time.” The published application to Vinson, *et al.* also fails to

teach or suggest “*classifying the data describing the event timelines according to viewing time for genres of programming.*” Independent claim 1, then, cannot be anticipated by *Vinson*.

Claims 1, 3-8, and 10-14, then, are not anticipated by *Vinson*. Independent claim 1 recites many features that are not taught or suggested by *Vinson*. The dependent claims incorporate these same features and recite additional features. Claims 1, 3-8, and 10-14, then, are not anticipated, so the Office is respectfully requested to remove the § 102 (e) rejection of these claims.

#### **Rejection of Claims 2 & 9 under § 103 (a)**

The Office rejected claims 2 and 9 under 35 U.S.C. § 103 (a) as being obvious over *Vinson* in view of U.S. Patent Application Publication 2002/0123928 to Eldering, *et al.*

These claims, though, cannot be obvious over *Vinson* with *Eldering*. These claims depend from independent claim 1. These claims, then, incorporate the same distinguishing features discussed above, and these claims recite additional features. As the above paragraphs explained, *Vinson* fails to teach or suggest all the features of independent claim 1, and *Eldering* does not cure the deficiencies. *Eldering* extracts information, such as XML files, to generate subscriber profiles. See U.S. Patent Application Publication 2002/0123928 to Eldering, *et al.* at [0134]. Even so, the proposed combination of *Vinson* with *Eldering* still fails to teach or suggest all the features of independent claim 1, from which claims 2 and 9 depend. One of ordinary skill in the art, then, would not think that claims 2 and 9 are obvious. The Office is respectfully requested to remove the § 103 (a) rejection of these claims.

#### **Rejection of Claims 15-28 & 31-35 under § 103 (a)**

The Office rejected claims 15-28 and 31-35 under 35 U.S.C. § 103 (a) as being obvious over *Vinson* with *Eldering* and further in view of U.S. Patent Application Publication 2002/001696 to Aratani, *et al.*

Claims 15-28 and 31-35, though, cannot be obvious. These claims recite, or incorporate, many features that distinguish over *Vinson with Eldering* and *Aratani*. Independent claim 15, for example, recites “collect subscriber content-choice data from a plurality of service providers as data describing event timelines that merges content metadata with subscriber events over a period of time.” Support may be found at least at paragraphs [0074R] - [0074T], which were incorporated by reference and added by an amendment submitted June 29, 2009. Independent claim 15 also recites “classifying the data describing the event timelines according to viewing time for genres of programming.” Support may be found at least at page 9, lines 7-15 of the as-filed application.

At least these features are not obvious over *Vinson with Eldering* and *Aratani*. The above paragraphs already explained how *Vinson with Eldering* fails to teach or suggest all the features of independent claim 15, and *Aratani* does not cure the deficiencies. Because the proposed combination of *Vinson with Eldering* and *Aratani* fails to teach or suggest all the features of independent claim 15, one of ordinary skill in the art would not think that independent claim 15 is obvious.

Claims 15-28 and 31-35, then, cannot be obvious. Independent claim 15 recites many distinguishing features, and the dependent claims incorporate these same features and recite additional features. Claims 15-28 and 31-35, then, cannot be obvious, so the Office is respectfully requested to remove the § 103 (a) rejection of these claims.

**Rejection of Claims 36 & 37 under § 103 (a)**

The Office rejected claims 36 and 37 under 35 U.S.C. § 103 (a) as being obvious over *Vinson with Eldering* and *Aratani* and further in view of Published PCT Application WO 98/31114 to Grauch, *et al.*

Claims 36 and 37, though, cannot be obvious. These claims recite, or incorporate, many features that distinguish over *Vinson with Eldering, Aratani, and Grauch*. Independent claim 36, for example, recites “*storing the data describing the event timelines in a clearinghouse database*” and “*classifying the data describing the event timelines according to geographical location and viewing time of different genres of programming*” (emphasis added). Support may be found at least at paragraphs [0022], [0046], [0050], [0053] - [0054], and [0075] of the as-filed application.

At least these features are not obvious over *Vinson with Eldering, Aratani, and Grauch*. The above paragraphs already explained how *Vinson with Eldering* and *Aratani* fails to teach or suggest “*subscriber content-choice data from a plurality of service providers as data describing event timelines that merges content metadata with subscriber events over a period of time,*” which is also recited by independent claim 36. Even though *Grauch* discloses an event timeline, the proposed combination of *Vinson with Eldering, Aratani, and Grauch* still fails to teach or suggest “*storing the data describing the event timelines in a clearinghouse database*” and “*classifying the data describing the event timelines according to geographical location and viewing time of different genres of programming*” (emphasis added). One of ordinary skill in the art, then, would not think that independent claim 36 is obvious.

Claims 36 and 37, then, cannot be obvious. Independent claim 37 recites many distinguishing features, and dependent claim 37 incorporates these same features and recites additional features. Claims 36 and 37, then, cannot be obvious, so the Office is respectfully requested to remove the § 103 (a) rejection of these claims.

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If any questions arise, the Office is requested to contact the undersigned at (919) 469-2629 or [scott@scottzimmerman.com](mailto:scott@scottzimmerman.com).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott P. Zimmerman". The signature is stylized with large, sweeping loops and a prominent "S" at the beginning.

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